

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

PETER MONNIER,	:	
	:	
Plaintiff,	:	
	:	
v.	:	No.
	:	
SAMSUNG ELECTRONICS AMERICA, INC.,	:	
a New Jersey Corporation; and	:	
SAMSUNG ELECTRONICS CO., LTD,	:	
a Foreign Limited Liability Company	:	
	:	
Defendant.	:	

PLAINTIFF'S COMPLAINT

Plaintiff, by and through his attorneys, **JOHNSON BECKER, PLLC**, upon information and belief at all times hereinafter mentioned, alleges as follows:

NATURE OF THE ACTION

1. This is a products liability action seeking recovery for personal injuries and damages suffered by **Plaintiff Peter Monnier** (hereafter referred to as "Plaintiff"), after Plaintiff purchased and used a Samsung Galaxy J3 cell phone (hereafter referred to as the "subject cell phone") designed, manufactured, produced, tested, studied, inspected, labeled, marketed, advertised, promoted, distributed and sold by **Samsung Electronics America, Inc.** (hereafter referred to as "Defendant SEA") **and Samsung Electronics Co., LTD.** (hereafter referred to as "Defendant SEC") (collectively referred to as "Samsung" or "Samsung Defendants").
2. On or about November 28, 2018, the subject cell phone overheated and caught fire while resting on the Plaintiff's back-right pants pocket.

3. As a direct and proximate result of the Defendants' collective conduct, the Plaintiff in this case have incurred bodily injuries, physical pain, mental anguish, diminished enjoyment of life, and other damages.

THE PARTIES

4. Plaintiff is resident and citizen of the city of Madison, County of Dane, State of Wisconsin.

5. Defendant SEA is a New Jersey Corporation, with its principal place of business located at 85 Challenger Road, Ridgefield Park, NJ 07660-0511. Defendant SEA is a wholly owned subsidiary of Defendant SEC. At all relevant times herein, Defendant SEA was engaged in and responsible for the design, manufacture, production, testing, study, inspection, labeling, marketing, advertising, sales, promotion, and distribution of the subject cell phone.

6. Defendant SEC is a foreign corporation with its principal place of business at 129, Samsung-roy, Yeongtong-gu, Suwon-si, Gyeonggi-do, Korea. Defendant SEC is the parent company of Defendant SEA. At all relevant times herein, Defendant SEC was engaged in and responsible for the design, manufacture, production, testing, study, inspection, labeling, marketing, advertising, sales, promotion, and distribution of the subject cell phone.

JURISDICTION & VENUE

7. This Court has subject matter jurisdiction over this case pursuant to diversity jurisdiction prescribed by 28 U.S.C. § 1332 because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and there is complete diversity between the parties.

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because all or a substantial part of the events or omissions giving rise to this claim occurred in this District.

9. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391 because Defendants have sufficient minimum contacts with the State of Wisconsin and intentionally availed themselves of the markets within through the promotion, sale, marketing, and distribution of its products

FACTUAL BACKGROUND

A. SAMSUNG'S KNOWN HISTORY OF ISSUES WITH ITS CELL PHONES

10. Samsung is engaged in the business of designing, manufacturing, producing, testing, studying, inspecting, labeling, marketing, advertising, selling, promoting, and distributing consumer goods and electronics, including smartphones such as the Galaxy J3 smartphone; the subject cell phone at issue in this litigation.

11. According to Samsung's website, it "rose to the top in the global smartphone market in 2016" and now boasts of "annual sales of more than 400 million mobile devices worldwide."¹

12. Samsung accredits its "growth and stellar performance"² to its "Technological Innovation"³; bragging that it has "delivered [the] world[s] best products and services through passion for innovation and optimal operation"⁴.

13. In late 2011, Samsung began promoting and selling a line of smartphones known as the "S" or "Galaxy" series.

14. The "S" smartphones are powered by lithium ion batteries, which are used to power several everyday items such as laptop computers, tablets and power tools.

¹ See <https://www.samsung.com/us/aboutsamsung/business-area/it-and-mobile-communications/> (last accessed October 16, 2018).

² *Id.*

³ *Id.*

⁴ See <https://www.samsung.com/us/aboutsamsung/vision/vision2020/> (last accessed October 16, 2018).

15. Lithium ion batteries contain a volatile chemical material known as liquid electrolytes. The electrolytes used in these batteries are combustible liquids and can explode if the battery becomes too hot.⁵ This is a phenomenon commonly referred to as “thermal runaway”.
16. On March 11, 2016, Samsung released the Galaxy S7 to consumers worldwide.⁶
17. Five months later, on August 2, 2016, Samsung announced the release of the Galaxy Note 7, and began shipping to U.S. Customers on August 19, 2016.⁷
18. However, Samsung delayed the rollout of the Galaxy Note 7 after receiving multiple reports of the battery exploding during charging.⁸
19. On September 1, 2016, Samsung issued a recall on all Samsung Galaxy Note 7 smartphones in response to 35 reports of a “battery cell issue[s]” resulting in the phones exploding and catching fire.^{9 10}
20. As a result, major cell phone carriers around the United States, including Verizon¹¹, T-Mobile¹², Sprint,¹³ and U.S. Cellular¹⁴ released recall information for consumers who ordered Samsung’s Galaxy Note 7 smartphone.

⁵ See e.g. <https://www.consumerreports.org/safety-recalls/why-lithium-ion-batteries-still-explode-and-whats-being-done-to-fix-the-problem/> (last accessed October 16, 2018). (“The chemicals inside the battery begin to heat up, which causes further degradation of the separator. The battery can eventually hit temperatures of **more than 1,000° F. At that point the flammable electrolyte can ignite or even explode when exposed to the oxygen in the air.**”) (emphasis supplied).

⁶ <https://www.androidpit.com/samsung-galaxy-s7-review> (last accessed November 11, 2021).

⁷ See <https://appleinsider.com/articles/16/08/31/samsung-stops-shipments-of-exploding-galaxy-note-7-phones> (last accessed October 16, 2018).

⁸ *Id.*

⁹ <https://www.cnet.com/news/samsung-confirms-global-recall-replacement-galaxy-note-7-faulty-battery/> (last accessed November 11, 2021).

¹⁰ <https://www.samsung.com/us/note7recall/> (last accessed November 11, 2021).

¹¹ <https://community.verizonwireless.com/docs/DOC-2621> (last accessed November 11, 2021).

¹² <https://www.t-mobile.com/news/samsung-note7-update> (last accessed November 11, 2021).

¹³ <https://www.sprint.com/en/support/solutions/device/galaxy-note7-recall.html> (last accessed November 11, 2021).

¹⁴ <https://m.uscellular.com/uscellular/note7/recall.html> (last accessed November 11, 2021).

21. Following the recall, Samsung began an exchange program in which consumers could exchange their Galaxy Note 7 for a Galaxy S7 Edge.¹⁵

22. Around this same time, reports began to surface of similar incidents of phones exploding; this time involving the Samsung Galaxy S7 Edge and Galaxy S7.¹⁶

23. Despite being aware of these incidents, Samsung choose to ignore the problem, assuring consumers that “S” series family was safe to use.¹⁷

24. The problem with Samsung’s smartphones overheating, catching fire or exploding is not a new one. Over the past several years, the Consumer Products Safety Commission has received several reports of other similar incidents stemming from Samsung’s phones and accessories overheating and catching fire. For example:

- a. August 7, 2011: (“This incident happened in the morning. The phone had been charging overnight, as I do every night, and I went to go unplug the charger from the phone when I realized the phone was incredibly hot. It was so hot that I could not even try to hold it or I would be burned. The phone eventually restarted itself, as I believe it overheated. A few days later, this incident happened again as I was entering the car. Luckily, I had my phone in my car's cup holder. Again, the phone was incredibly hot to the touch. If the phone would have been in my pocket or on my person, I would have been burned.”)
- b. August 9, 2011: (“On August 9, 2011, [REDACTED] had his samsung droid cellphone in his pocket. Instantaneously his cellpone [sic] got hot and burned his leg. It was such a serious burn that he had to drop his pants and roll. He sustained burn injury to his leg and was taken to emergency room and treated. He is still receiving treatment consisting of topical ointment and pain medication. He has been out of work since the incident.”)

¹⁵ <https://www.samsung.com/ph/galaxyexchange/> (last accessed November 11, 2021).

¹⁶ <http://fortune.com/2016/11/16/samsung-smartphone-explodes/> (last accessed November 11, 2021).

¹⁷ See <https://news.samsung.com/us/statement-galaxy-s7-family/?CID=afl-ecomm-cjn-cha-092118-52057&cjevent=be522340d22011e88364005d0a1c0e11> (last accessed November 11, 2021). (“Samsung stands behind the quality and safety of the Galaxy S7 family. There have been no confirmed cases of internal battery failures with these devices among the more than 10 million devices being used by consumers in the United States; however, we have confirmed a number of instances caused by severe external damage. Until Samsung is able to obtain and examine any device, it is impossible to determine the true cause of any incident.”)

- c. August 18, 2011: (“On August 18th, 2011 my son was charging this cell phone that we bought him a few weeks earlier. He had the phone plugged into an outlet in his bedroom by his bed. The phone was plugged in for two to three hours. When he went to take it off the charger it was so hot that he dropped it onto the bed because it was too hot to hold. He unplugged [sic] it and found that the phone had not charged at all.”)
- d. September 5, 2011: (“The consumer stated that his cellular phone was in his pocket when it overheated, burned his left leg and the hairs on leg. The consumer describes his burns as first degree. The phone was in a plastic protective case was in a plastic protective case at the time. The consumer has not had any prior issue with the phone except functionality issues. The phone appears to be discolored at the inner panel of the battery compartment...”)
- e. November 9, 2012: (“[S]amsung [R]eplienish cell phone by [S]amsung got real hot [while I] was talking on device then the screen went off...the phone was hot [enough] to burn skin.”)
- f. December 5, 2012: (“Patient was talking on the galaxy phone and the phone was warm and he got a partial thickness burn on his Right cheek.”)
- g. January 23, 2013: (“I am writing to report a defect in the Samsung Galaxy S3 cell phone. I was leaving work and the phone screen shattered in my hand. I was in a warm building and as soon as I got outside in the cold weather, the screen shattered and I got glass lodged in my hand. I am under the impression that cell phone screens can withstand hot/cold weather. I did not drop my phone.”)
- h. February 1, 2013: (“Cellphone over heating, battery swelling, battery jumps down in charge after heat. Phone shuts off. Restarts with no battery reserve. Fear of battery fire.”)
- i. July 26, 2013: (“My wife and I live in Kansas City, MO. And were leaving to go on vacation on the 27th of July. On July 26th 2013 my wife set her phone alarm and plugged it in to charge placing it on her nightstand. We were getting up early to drive to Marion NC. the next day. Around 1:00a.m. we heard a hissing sound and then a loud POP. My wife yelled FIRE. I jumped out of bed to a smoke filled room saw that her phone was on fire. The phone is a SAMSUNG GALAXY SII MODEL NO. SPH-D710.”)
- j. August 5, 2013: (“[M]y cell was charging on the table I [heard] a loud pop I smelled smoke the phone melted and the wires burned also burned my table...”)
- k. August 7, 2013: (“The consumer says that her cell phone gets severely hot after charging for about fifteen minutes. her child rolled on top of it with his leg and it burned his left leg. They keys got so hot that the keys on the phone are bent. She says that the phone burns her all the time when she has been on the phone for a

while. She contacted the manufacturer who told her they have never received a report on this. She says that is a lie because she saw a report on TV about it.”)

- l. August 24, 2013: “Caller just received a new Google Galaxy Phone on Saturday, August 24th, 2013. He put it on the charger for six hours but when he picked it up to use after it charged when he prepared to leave in the morning. He picked the phone up with his right hand and the charger cord in his left hand. He smelled burning, felt pain and saw that the cord was laying across from this ring finger to the small finger, across his palm and was burning the skin. He dropped the phone and cord which removed it from his hand. He looked at the cord noting that smoke was coming from the charger cord which was burned from the inside out...”)
- m. January 19, 2014: (“Samsung SCH-I515V. I've had this cell phone for almost 2 years. It was plugged into the same charger as always to charge overnight. When I went to unplug it from the charger, the charging cord connector and the bottom of the phone was visably burned and melted. It looks like it had been on fire momentarily.”)
- n. April 16, 2014: (“My husband[‘s [S]amsung s4 was plugged into the charger and started to smell smoke, the charger ended up melting [i]nto the phone and no longer works.”)
- o. April 24, 2014: (“I purchased a [S]amsung galaxy s4 in Dec of 2013 as a [Christmas] gift for my son. [O]n [A]pril 24th my son was playing a game when he suddenly said ouch and dropped the phone. [H]is thumb was lightly burned and the cell phone was [extremely] hot and some was coming out, I then realized the phone was burnt on the screen and on the inside.”)
- p. April 25, 2014: (“I have a Samsung Galaxy S3 cell phone early this morning while I was in the shower and my Fiance and daughter were asleep in bed my phone was on the charger to charge the battery when a loud pop occurred and the battery of the phone shot the back cover and battery out of the phone spraying a black fluid out and pouring out smoke the battery laded on the carpet about a foot away from where the phone was charging at this point the battery pack was red in color and smoking hot it instantly burnt the carpet to the point it started flaming on fire at which point I scooped up the battery and stomped out the flame as I ran to the bathroom and through the battery under running water to cool it off.”)
- q. May 2, 2014: (“Samsung S4 wall charger started to burn while plugged in. The end burnt and also burnt my carpet.”)
- r. May 11, 2014: (“While plugged in my Samsung Galaxy S4 became so hot it melted the cable. I'm not sure if there was fire but the device was certainly smoking. It was plugged into the charger that came with the phone, but the cable was not original. There's been no liquid damage to the device.”)

- s. June 12, 2014: ("I purchased two [S]amsung galaxy nexus phones in a promotion. I activated only one phone and kept the other for a spare. I already have four phones activated for family. Around [June] 12th my phone got really hot so much that I dropped it out of my hand. It had been getting warmer and warmer over the year. When I dropped the phone it cracked the face of the phone. I got out a laser to possibly get my phone working properly. That is ridiculous since I didn't install the system they do at the factory.")
- t. August 2, 2014: ("Yesterday I plugged my Samsung S4 SAMSUNG-SGH-I337 into my USB charger. The charger and cable are also made by Samsung. When I checked on the phone 20 minutes later I saw smoke coming from where the USB connector goes in to the cell phone. I disconnected it, and saw a flame coming from the USB connector of the charger.")
- u. August 15, 2014: ("The consumer was in her home with her device at hand. Suddenly her husband tells her that the phone is smoking. The consumer immediately tosses it on the floor and her husband proceeded to stomp on it. The back cover came off the phone and the battery came out. The consumer states there was smoke everywhere and the battery caught on fire. It was approximately five seconds before the husband was able to get water and pour it on the battery. After ten minutes had passed, the consumer picked up the phone and the battery and bagged them in a [plastic bag].")
- v. August 23, 2014 ("I have a Samsung galaxy4 phone the battery was low on Saturday evening so I plugged the charger into the phone sometime during the night of Saturday August 23rd 2014 the phone and charger where it was plugged into caught fir[e] and burned the area around the charger port and the charger end.")
- w. August 30, 2014: ("I just charged my Samsung galaxy s4 using all original equipment as provided by Sprint when I felt a burning in my pocket as I pulled my phone out It seared my skin, the screen cracked burning out some of the screen all while shouting down. The temperature was equivalent to pulling something out of the oven after baking or boiling water and dunking your hand in it.")
- x. September 17, 2014: ("My husband's five year old cell phone exploded and caught on fire yesterday while it was inside it's case and clipped to his belt. It was not charging at the time. My husband was in his office and they all heard a "pop" sound, and he realized flames were coming out of the phone case. He was able to flip the case off his belt with his left hand, sustaining a burn blister on his left thumb. The phone and case landed on the floor, where fumes came out and it stopped burning.")
- y. September 25, 2014: ("I own a Samsung Galaxy SIII cell phone. I ordered a new battery that was being supplied by a company called [REDACTED] and fullfilled through Amazon. The first day of using the new battery my phone worked wonderful. On Sept 25,2014 I set my phone down on my living room table, plugged it in to charge, within 5 minutes my phone started making a sizzling sound, I went

to reach for it and the front of the phone flew off the table, the battery expanded to 3 times its normal size, began to flame and smoke horribly. I brushed the battery off the table and onto a newspaper, and threw it outside. My house was filled with a horrible smoke, I burnt my fingernail and had a tingling sensation in my fingertips that lasted 2 days.”)

- z. October 2, 2014: (“...Initially the phone got hot when it charged, then it would only charge to 10 -15%. While charging approximately the first of October 2014 the phone literally melted to my counter. The area around the charging port was black and melted. This is not an isolated incident as my daughters did the same thing while laying on a coffee cup. (She knew what mine did and was protecting her property.)...”)
- aa. June 2, 2015: (“My wife's phone exploded and caught fire while being charged last night. There was property damage but no bodily injuries.”)
- bb. June 18, 2015: (“I had a Samsung Galaxy Note II cell phone that was purchased from an AT&T store in 2013. There were no prior issues with the phone. Recently, the phone became hot, and large amounts of smoke and sparks emitted from the device. The battery then projected out of the back of the device onto the floor, leaving burn marks and a hole in the carpet...”)
- cc. August 3, 2015: (“I was charging my Samsung Galaxy S5 mobile phone overnight. I woke up in the middle of the night to the phone screen lit up and the phone smoking from the point at which the charger plugs into the phone. Once unplugged, I examined the phone and charger. Both phone and charger had burn marks and were melted slightly. The phone is unusable and I am unable to charge it. If it I had not woken in the middle of the night, I fear that the phone/charger would have started a fire.”)
- dd. September 21, 2015: (“Caller stated that while he was charging his cell phone the charging port got extremely hot and started to melt. The phone was charging for a couple of hours.”)
- ee. October 14, 2015: (“I was sleep and I smelled smoke and I woke up and my charger was on fire and the plastic was melting and the wires were exposed.”)
- ff. November 10, 2015: (“...My phone is getting unbelievable hot so hot can't hold it after 15 minutes of talk time. Just the other day [I] had it in my pocket it was so hot it was burning my leg. My phone got so hot start [smoking].”.
- gg. November 15, 2015: (“I was utilizing my supplied Samsung charger to charge my Samsung Edge plus cell phone. I reached to pick up the phone and sustained a first degree burn of my right ring finger due to excessive heat from the charger at the point of connection to the phone while on "fast charge" mode. The charger tip appears to be melting and is now brown in a spot...”)

- hh. November 27, 2016: (“I have a Samsung Galaxy S4. The model number is SPH-L720. This phone is approximately two years old. The battery that came with it was not performing well or keeping a charge so I removed it from the phone and put it in the box that the phone came in. I was using an extended battery in the phone for the past 5 months. When I went to retrieve the battery from the box in my desk drawer I found that the battery was expanding and swollen to the point that it could burst at any moment. It hasn't exploded or caught fire yet but I think that is only because I had stopped using it.”)
- ii. December 15, 2015: (“Samsung S4 phone short-circuited while plugged in to charge overnight, melting/scorching the end of the charging cord and the input connection on the phone.”)
- jj. December 28, 2015: (“The morning of December 28th, 2015 I woke up to find my Samsung phone charger had almost started on fire. My phone was red hot (I have a newer Samsung Galaxy), the charger tip that was in my phone was black and my phone was completely toast.....”)
- kk. January 11, 2016: (“During operation cell phone became extremely hot to touch and the screen developed a crack.”)
- ll. January 16, 2016: (“The original Samsung partially melted. Caller returned it to firm that handles Samsung extended warranty. This one is a refurbish. Caller is reporting that the cell phone poses similar problem as the recall#16-266. He stated that the phone overheated in his pocket and he had to contact his provider for a replacement. This is the second one to overheat.”)
- mm. January 23, 2016: (“Cell phone was off and thus required charging. I plugged the phone into the manufacture supplied charger. About an hour later I detected a strange smell. I found that the micro USB portion that plugs into the phone was warped, melted, and discolored. The phone itself was also extremely hot and I was unable to pick it up because it was so hot. This heat would have burned a small child. Items underneath the phone were also extremely hot. The wiring that connects into the micro USB had also melted and pulled away from the micro USB. The phone is no longer functional.”)
- nn. February 1, 2016: (“When the phone is charged, it gets hot to the touch. The charger that came with the phone also gets extremely hot. The phone can be fully charged for an hour, but the consumer said that it starts to get hot immediately...”)
- oo. May 30, 2016: (“A native of Tracy, California, [REDACTED] purchased his Galaxy S7 Edge at a Best Buy store in Modesto, California, on March 11, 2016. He was in Akron, Ohio for a construction project as part of his work for [REDACTED]. [REDACTED] placed his S7 Edge in his right front pocket on the morning of May 30, 2016 as he began work. Shortly thereafter he noticed his phone

whistling, screeching, and vibrating, as well as smoke coming from his pocket. As he reached into his pocket to remove the phone [REDACTED] suffered burns to his right hand. Without warning the S7 Edge exploded and caught fire while still in his pants pocket, causing his boxer shorts and pants to melt to his leg, leaving him with second and third degree burns. He suffered severe and permanent burn injuries to his groin, legs, and lower back that required a significant skin graft surgery and will necessitate extensive physical therapy moving forward. “)

- pp. June 9, 2016: (“The phone was placed on charge around 1230am on June 9, 2016 using the Samsung charger that is issued with the phone. The phone was sitting on the side of the bed, with nothing covering it, and around 4am the it pretty much exploded and caught on fire. The sound was so loud it woke my child up in the next room. The fire burnt through my sheets, mattress, and luckily no bodily harm was caused. This disaster occurred while we were sleeping and could have caused a lot more damage to my house and my family. This is unacceptable for a phone to burst into flames while charging. Now, he is without a phone, and my mattress smells like burnt plastic.”)
- qq. June 13, 2016: (“I have a Samsung Galaxy S5 which exploded on June 13 at 4:30 AM whilst resting on my night table. Here is what happened: within the first year after I bought this phone, I stopped at one of the Verizon Centers when my phone was so hot that it was uncomfortable for me to hold it in hand. This has been happening since I bought it but as I have checked with other users, I disregarded the heating issue as a normal thing to happen. The Verizon representative was alarmed with the heat coming from the phone and said he could give me another battery but that I had to wait about six weeks to arrive because he did not have it in the store and had to order one. At that time I was ready to leave the country for two months and he suggested that I bought another compatible battery and sent me to a store that according to him was a reliable store. He said I could claim a refund after I came back. I did what he recommended and the battery store sold me a [REDACTED] battery. With the new battery the phone was not as hot. I used it for many months until one night around 4AM a puffing sound woke me up to a surreal view of a burning fire by the side of my bed. I was startled and my first reaction was to throw a pillow over the flames. As I lifted the pillow the battery of the phone was melted (puffed up) over the carpet but was still smoking. I had a glass of water in my night table and I poured it over the battery. What an awful experience; waking up to such a scene where the whole room was lighted and heated by flames reaching about 3 feet height and the smelling of burning carpet! Indeed, an emotionally disturbing experience. I was traumatized, nervous and trembling for a few hours with my heart beating very fast.”)
- rr. July 12, 2016: (“I plugged my [S]amsung phone up to the cord. I went to sleep for a bit. I woke up because my arm was hurting only to realize that I fell asleep with my arm on the cord right at the part that plugs into my phone. I then realized that it burned my arm giving me a blister. How can something that children use everyday be so dangerous?”)

- ss. August 1, 2016: (“I have owned my Samsung S6 Edge for just about 3 months. In this time, the phone has overheated frequently, to the point where it has left several burns on my fingers, hands and arms. Some of these burns have left blisters, and at least two have left scars. None were large enough to seek out medical attention, but they have been painful, as I suspect most burns are, and have required ointment and over-the-counter pharmaceutical care.”)
- tt. August 6, 2016: (“I am assisting my elderly parents who experienced a house fire in Sarasota Florida and a Samsung Galaxy Note 7 was charging in one of the cars parked in the garage, where the fire originated. The house was a total loss but luckily there was no loss of life.”)
- uu. Augsut 13, 2016: (“My Samsung galaxy S6 exploded on my night stand in the middle of the night on Saturday, august 13th. The device caught fire as well as my nightstand. It also sent little embers onto my bedding. Had I not woken up I have no doubt I'd be dead or seriously injured.”)
- vv. August 23, 2016: (“[W]hile the phone was charging [the] battery caught fire, burning through the phone and the case. [I]t nearly caused a house fire but I was able to put it out. I have contacted Samsung about this product. they have implied that this has happened before this product is presents a clear danger to the public I have pictures of the phone available.”)
- ww. August 31, 2016: (“Thought [I] would let you know that my two-month-old Samsung S7 Edge got so hot that it burned my hand and [I] could not hold onto it. After that, the screen started blinking and the phone rebooted and would not make calls. I immediately returned it to T-Mobile store and they issued an exchange for another refurbished S7 phone. I thought should you should know after the note 7 recall. Seems like a similar battery issue.
- xx. September 2, 2016: (“My husband was charging his Samsung Galaxy Note 7 while we were napping on September 2, 2016. My husband rolled over on the phone while asleep discovering the phone was incredibly hot causing a burn to his left chest wall as documented by an MD at Takoma Regional Hospital Urgent Care. We reported the incident to Samsung immediately upon leaving the medical office. We have been in contact with Samsung everyday on our part to reach a resolution however none has been offered.”)
- yy. September 9, 2016: (“This is a Samsung S4 active phone. This was set for charging, after a while I removed the charger but the underneath of the charger melted and the metal position was exposed. Worth out knowing I removed and my finger got burned as well as the phones charging port. The phone is unusable and probably could have got a fire as the phone was on the night stand. I called Samsung and reported so far I have never got any feedback. I also send all the pictures to Samsung

to the emails they provided of my burned finger, melted charger and burned charging port of my device.”)

- zz. September 17, 2016: (“Samsung Galaxy Note 7 Battery exploded on 9/17/16 around 3 AM ET which I was charging the smartphone, causing smoke alarm and property damage...”)
- aaa. September 23, 2016: (“The Samsung Galaxy 6 edge mobile phone caught fire while charging using the approved Samsung adaptive fast charging cord and power block. The USB port is what was damaged from burning and overheating. Phone smells of burning plastic when powered on. The USB cable had smoking emitting from it during the incident.”)
- bbb. September 26, 2016: (“9-26-2016 I woke up at 5:30 took phone off charger and did usual checking email and played games on phone until 6:30. Phone was not hot that I could tell. After taking kids to the bus about 20 minutes without using the phone I took it out of my pocket laid it on my bed and it popped really loud and start spewing smoke and melted plastic out of the phone on both ends, screen shattered and the case melted. The smoke alarms went off and the phone was too hot to touch. So much smoke it took all day with Windows open and fans blowing out the windows to get the burnt plastic smell out of the house. Burned my sheets but because of the case the damage was minimal. I believe there is a problem with this phone battery also.”)
- ccc. October 13, 2016: (“I have a Samsung galaxy S7 edge, and the phone gets too hot at times to hold. I have had to replace my S7 edge already because the first one got so hot that I dropped it because it was burning my hand. After replacing the broken S7 edge with another S7 edge the problem still continued in the replacement phone. At different times the phone will be so hot to the point I cannot place it to my ear. I have reported the issue to Samsung and all they say is to send it in so they can analyze the problem.”)
- ddd. October 12, 2016: (“I leased a Samsung Galaxy S6 Active from AT&T approximately one year ago, I have recently noticed the phone getting very hot when charging it, I have always used the charger that I got with the phone. Approximately 4 weeks ago I tried to unplug my phone and the charger and phone were so hot that it was burning my fingers trying to unplug it. The following day I used a heat sensing thermometer to check the temperature of the phone, I took pictures of the thermometer on the phone and it read 152 degrees, it was so hot it actually melted the charger. I contacted Samsung and they just tell me they are sorry, but to mail my phone back to them and they will look at it, but I will have no phone in the meantime, and even after all I have paid for this phone, they are not even sure if it can be fixed or it will have to be disposed of for safety reasons. I just want a phone that isn't going to burn my home down or harm my family.”)

- eee. October 31, 2016: (“I was charging my Samsung Galaxy S6 overnight with the charger that was provided with the phone. The phone started to smoke and sizzle in the middle of the night. Then the battery exploded and the front and back of the phone was burned. The room filled with smoke and the nightstand it was charging on was also burned where the phone was sitting.”)
- fff. October 24, 2016: (“My daughter, [REDACTED], has a Samsung Galaxy S5 cellphone. For many weeks it has been getting hot and overheating. It will shut down without prompt or without any button being pushed. The screen would become so hot that [REDACTED] could not touch the device. She could not put the phone in her pocket because of the extreme heat. Finally today the device got so hot that it overheated and cracked the glass on the front of the phone.”)
- ggg. November 4, 2016: (“Samsung S4 exploded in the middle of the night while charging in my child's bedroom. It was on fire. Sounded like an explosion...like a bomb went off. Smoke alarms started due to fire. Absolutely terrible and did lots of damage. This is an immediate safety concern. I am very upset about this safety hazard and consumers should be aware of this danger...”)

25. At all times prior to the incident on November 28, 2018, Samsung was fully aware of these reports and the serious fire and safety hazards their smartphones posed to consumers.

26. Despite knowing about the overheating problem existing across multiple generations and models of Samsung phones, Samsung continues to make phones with bigger and more powerful batteries; generating a substantial profit in the process.

27. Plaintiff purchased the subject cell phone because of Samsung’s representation concerning safety, durability, and performance, and had no reason to expect that the subject cell phone would suddenly and unexpectedly catch fire and injure him.

28. Plaintiff purchased the subject cell phone because of Samsung’s representation concerning safety, durability, and performance, and had no reason to expect that the subject cell phone would suddenly and unexpectedly catch fire and injure him.

29. Further, and despite Samsung’s representations to the contrary, the subject cell phone was not safe or fit for the use in which it was intended.

30. The subject cell phone possessed defects that made it unreasonably dangerous for its intended use by consumers, including the Plaintiff, due to the high degree of risk of the subject cell phone to overheat, catch fire and suddenly and unexpectedly burst into flames or explode.

31. Practical, feasible and safer alternative designs existed that would have prevented or reduced the propensity of the lithium ion battery within the subject cell phone to overheat, catch fire, and suddenly and unexpectedly burst into flames or explode.

32. Had Samsung properly disclosed and warned of the significant risks of injury caused by the subject cell phone, Plaintiff would not have purchased the subject cell phone.

33. Consequently, the Plaintiff in this case seeks compensatory damages resulting from the use of the subject cell phone as described above, which has caused the Plaintiff to suffer from bodily injuries, physical pain, mental anguish, diminished enjoyment of life, and other damages.

SPECIFIC COUNTS

COUNT ONE AS TO BOTH DEFENDANTS

STRICT PRODUCTS LIABILITY

(DEFECTIVE DESIGN, DEFECTIVE MANUFACTURE & FAILURE TO WARN)

34. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further alleges:

35. Defendants manufactured, designed, assembled, tested, marketed, sold, supplied and otherwise placed into the stream of commerce the subject cell phone, including lithium ion battery within the subject cell phone, which was designed in a defective condition; defectively manufactured; contained inadequate and incomplete warnings for foreseeable consumers and users; and was otherwise unreasonably dangerous for its intended use by foreseeable consumers, including the Plaintiffs.

36. The subject cell phone, including lithium ion battery within the subject cell phone, was unreasonably dangerous in design and manufacture due to the high degree of risk of the subject cell phone to overheat, catch fire and suddenly and unexpectedly burst into flames or explode, as it did in this case. The propensity to catch fire and burst into flames is a product design defect that outweighs the utility or benefit derived from the product.

37. Defendants failed to act reasonably in choosing a design of the subject cell phone that did not prevent the lithium ion battery within the subject cell phone from overheating, catching fire, and suddenly and unexpectedly bursting into flames or exploding during normal and foreseeable conditions.

38. Defendants could have used a more practical, feasible and safer alternative design to prevent or reduce the propensity of the lithium ion battery within the subject cell phone to overheat, catch fire, and suddenly and unexpectedly burst into flames or explode, as it did in this case.

39. At the time the subject cell phone, including lithium ion battery within the subject cell phone, was manufactured by the Defendants, it was defective, unsafe, and unreasonably dangerous for its intended and foreseeable use(s) by consumers, including the Plaintiff, due to these manufacturing defects or omissions by the Defendants.

40. The manufacturing defects of the subject cell phone, including lithium ion battery within the subject cell phone, increased the propensity of the subject cell phone to catch fire or explode, leading to personal injuries like those described herein in this Complaint.

41. Defendants failed to conduct adequate safety testing and inspection of the subject cell phone, including lithium ion battery within the subject cell phone, to determine whether it was safe for ordinary, foreseeable use by consumers, including the Plaintiff.

42. Defendants failed to warn foreseeable users and consumers, including the Plaintiffs, of the dangers associated with the subject cell phone, including lithium ion battery within the subject cell phone, to overheat, catch fire and suddenly and unexpectedly burst into flames or explode, as it did in this case.

43. Defendants failed to warn foreseeable users and consumers, including the Plaintiffs, of the increased risk of severe injuries associated with the regular, ordinary and foreseeable use of the subject cell phone, including lithium ion battery within the subject cell phone, and was a substantial factor in causing Plaintiff's injuries.

44. The subject cell phone, including lithium ion battery within the subject cell phone, was expected to reach and did reach the intended consumers, including the Plaintiffs, without substantial change in the condition in which it was sold.

45. Reasonable consumers, including the Plaintiff, would not have reason to expect that the subject cell phone, including lithium ion battery within the subject cell phone, would suddenly and unexpectedly catch fire or explode; would not be able detect any such defects; and would not have any knowledge as to how to prevent such an explosion or fire from occurring.

46. The Plaintiff did not misuse or materially alter the subject cell phone, including lithium ion battery within the subject cell phone, and are unaware as to how they could have avoided the incident.

47. At the time it was sold, Defendants knew or should have known of the defective condition, characteristics, and risks associated with the subject cell phone, including lithium ion battery within the subject cell phone, to overheat, catch fire and suddenly and unexpectedly burst into flames or explode, as it did in this case.

48. At the time it was sold, Defendants knew or should have known that the explosions and fires caused by lithium ion batteries, such as the one use in the subject cell phone, have the propensity to lead to serious personal injuries like those described herein in this Complaint.

49. The design and manufacturing defects contained within the subject cell phone, including lithium ion battery within the subject cell phone, as well as Defendants inadequate warnings and instructions for the use and the dangerous propensities associated with the subject cell phone, including lithium ion battery within the subject cell phone, were the proximate causes of, directly resulted in, and/or substantially contributed to the injuries sustained by the Plaintiffs and their resulting damages, for which the Defendants are liable.

WHEREFORE, Plaintiff demands judgment against Defendants for damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

COUNT TWO AS TO BOTH DEFENDANTS
NEGLIGENCE

50. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further alleges:

51. Defendants had a duty of reasonable care to design, manufacture, market, distribute and sell non-defective cell phones that were reasonably safe for its intended use by the Plaintiffs and consumers alike.

52. Defendants failed to exercise the ordinary care required by a reasonably prudent manufacturer/wholesaler/distributor in the manufacture, sale, warning, quality assurance, quality control, distribution, advertising, promotion, sale and marketing of its cell phones in that Samsung Defendants, knew or should have known that the subject battery created a substantial risk of unreasonable harm to the Plaintiffs and consumers alike.

53. Defendants were negligent in the designing, manufacturing, advertising, warning, marketing, distributing and selling the subject cell phone in that, among other things, they:

- A. Failed to use due care in the preparation and design of the subject cell phone, including the lithium ion battery within the subject cell phone, to prevent the aforementioned risks to consumers, including the Plaintiffs;
- B. Failed to conduct adequate safety testing and inspection of the subject cell phone, including the lithium ion battery within the subject cell phone, if any, to determine whether it was capable of performing its intended use;
- C. Failed to adequately instruct and/or warn the Plaintiff and consumers alike of the potential dangers posed by the subject cell phone, including the lithium ion battery within the subject cell phone.
- D. Failed to cease manufacturing or otherwise alter the design or manufacture of the subject cell phone, including the lithium ion battery within the subject cell phone, to produce a safer alternative, despite the fact that Samsung Defendants knew or should have known that the aforementioned risks to consumers, including the Plaintiffs;
- E. Failed to conduct post-marketing surveillance to determine the safety of the subject cell phone, including the lithium ion battery within the subject cell phone;
- F. Failed to exercise reasonable care with respect to post-sale warnings and instructions for safe use by consumers, including the Plaintiffs;
- G. Failed to exercise ordinary care in labeling the subject cell phone, including the lithium ion battery within the subject cell phone; and
- H. Were otherwise careless and negligent.

54. Defendants' negligence was the proximate cause of, directly resulted in, and/or substantially contributed to the injuries sustained by the Plaintiff and his resulting damages.

WHEREFORE, Plaintiff demands judgment against Defendants for damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

COUNT THREE AS TO ALL DEFENDANTS
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

55. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further alleges:

56. Defendants breached the implied warranty of merchantability, as the subject cell phone, including the lithium ion battery within the subject cell phone, was not safe or of merchantable quality due to an unreasonably dangerous propensity to explode. As such, the subject cell phone, including the lithium ion battery within the subject cell phone, was not of the same quality as those other cell phones and accompanying batteries generally acceptable in the trade.

57. Defendants designed, manufactured, marketed, and sold the subject cell phone, including the lithium ion battery within the subject cell phone, with an implied warranty that it was of merchantable quality.

58. The average consumer, including the Plaintiff, would not reasonably anticipate the dangerous and harmful condition of the subject cell phone, including the lithium ion battery within the subject cell phone, or the injuries caused by reasonable and foreseeable use.

59. Members of the consuming public, including the Plaintiff, were the intended third-party beneficiaries of the warranty.

60. Plaintiff relied on Defendants' expertise, knowledge, skill, judgment and implied warranty in choosing to purchase the subject cell phone.

61. Defendants knew or should have known of the dangerous propensities of the subject cell phone, including the lithium ion battery within the subject cell phone, at the time it was sold, including the high degree of risk of the subject cell phone to overheat, catch fire and suddenly and unexpectedly burst into flames or explode, as it did in this case.

62. Defendants breach of the implied warranty of merchantability was the proximate cause of, directly resulted in, and/or substantially contributed to the injuries sustained by the Plaintiffs and their resulting damages, for which Samsung Defendants are liable.

WHEREFORE, Plaintiff demands judgment against Defendants for damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

COUNT FOUR AS TO ALL DEFENDANTS
BREACH OF IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE

63. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further alleges:

64. Defendants breached the implied warranty of fitness for a particular use, as the subject cell phone, including the lithium ion battery within the subject cell phone, was not safe or fit for the particular purpose in which it was intended to be used due to an unreasonably dangerous propensity to explode, even when utilized for its intended use.

65. Defendants designed, manufactured, marketed, and sold the subject cell phone, including the lithium ion battery within the subject cell phone, with an implied warranty that it was fit for the particular purpose of being used a cell.

66. The average consumer, including the Plaintiff, would not reasonably anticipate the dangerous and harmful condition of the subject cell phone, including the lithium ion battery within the subject cell phone, or the injuries caused by reasonable and foreseeable use.

67. Members of the consuming public, including the Plaintiff, were the intended third-party beneficiaries of the warranty.

68. Defendants knew or should have known of the dangerous propensities of the subject cell phone, including the lithium ion battery within the subject cell phone, at the time it was sold,

including the high degree of risk of the subject cell phone to overheat, catch fire and suddenly and unexpectedly burst into flames or explode, as it did in this case.

69. The subject battery was not safe or fit for the particular purpose in which it was intended to be used for.

70. Defendants' breach of implied warranty of fitness for a particular use was the proximate cause of, directly resulted in, and/or substantially contributed to the injuries sustained by the Plaintiffs and their resulting damages, for which the Samsung Defendants are liable.

WHEREFORE, Plaintiff demands judgment against Defendants for damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

INJURIES & DAMAGES

71. As a direct and proximate result of Defendants' collective negligence and wrongful misconduct as described herein, Plaintiff has suffered and will continue to suffer physical and emotional injuries and damages including past, present, and future physical and emotional pain and suffering as a result of the incident. Plaintiff is entitled to recover damages from Defendants for these injuries in an amount which shall be proven at trial.

72. As a direct and proximate result of Defendants' negligence and wrongful misconduct, as set forth herein, the Plaintiff has incurred and will continue to incur the loss of full enjoyment of life as a result of the incident. Plaintiff is entitled to recover damages for loss of the full enjoyment of life from Defendants in an amount to be proven at trial.

73. As a direct and proximate cause of Defendants' strict liability, negligence and wrongful misconduct, as set forth herein, Plaintiff has incurred medical treatment expenses and will continue to incur expenses for medical care and treatment, as well as other expenses, as a result of the injuries he suffered as a result of the incident. Plaintiff is entitled to recover damages from the

Defendants for their past, present and future medical and other expenses in an amount which shall be proven at trial.

JURY TRIAL DEMANDED

Plaintiff demands that all issues of fact of this case be tried to a properly impaneled jury to the extent permitted under the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendants for damages, including punitive damages if applicable, to which he is entitled by law, as well as all costs of this action, interest and attorneys' fees, to the full extent of the law, whether arising under the common law and/or statutory law, including:

- a. judgment for Plaintiff and against Defendants;
- b. damages to compensate Plaintiff for his injuries, past and future medical bills, economic losses and pain and suffering sustained as a result of the use of the Defendant's cell phone;
- c. pre and post judgment interest at the lawful rate;
- d. a trial by jury on all issues of the case;
- e. an award of attorneys' fees; and
- f. for any other relief as this Court may deem equitable and just, or that may be available under the law of another forum to the extent the law of another forum is applied, including but not limited to all relief prayed for in this Complaint and in the foregoing Prayer for Relief.

Respectfully submitted,

JOHNSON BECKER, PLLC

Dated: November 10, 2021

/s/ Adam J. Kress

Kenneth W. Pearson, Esq. (#016088X)

Adam J. Kress, Esq. (#0397289)

Admission Pending

444 Cedar Street, Suite 1800

(612) 436-1800 / (612) 436-1801 (fax)

kpearson@johnsonbecker.com

akress@johnsonbecker.com

Attorneys for Plaintiff